

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
)
v.) Case No.: 12-00133-01-CR-W-HFS
)
)
CHARLES DANIEL KOSS,)
)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on January 30, 2013. Defendant Charles Koss appeared in person pro se. Stand-by counsel Bob Kuchar was present. The United States of America appeared by Assistant United States Attorney Trey Alford.

I. BACKGROUND

On May 2, 2012, an indictment was returned charging Defendant with two counts of theft of government money, in violation of 18 U.S.C. § 641; one count of social security disability fraud, in violation of 42 U.S.C. § 408(a)(4); one count of passing with intent to defraud any false or fictitious instrument that appears to be an actual security or other financial instrument, in violation of 18 U.S.C. § 514; and one count of mail fraud, in violation of 18 U.S.C. § 1341.

The following matters were discussed and action taken during the pretrial conference:

II. TRIAL COUNSEL

Mr. Alford announced that he and Dan Nelson will be the trial counsel for the government. The case agents to be seated at counsel table are Special Agent Bill Nicotra - TIGCA and Special

Agent Kim Southard - SSA.

Defendant Charles Koss was largely unresponsive to my inquiry.

III. *OUTSTANDING MOTIONS*

There following motions remain pending:

- Defendant's motions to dismiss (Doc. Nos. 65, 76); R&R filed January 24, 2013 (Doc. No. 77);
- Government's motion for civil contempt (Doc. No. 31); certified facts filed January 23, 2013 (Doc. No. 75).

IV. *TRIAL WITNESSES*

Mr. Alford announced that the government intends to call 26 witnesses without stipulations during the trial.

Defendant Charles Koss was unresponsive so I assumed he intends to call no witnesses.

V. *TRIAL EXHIBITS*

Mr. Alford announced that the government will offer approximately 94 exhibits in evidence during the trial.

Defendant Charles Koss was unresponsive so I assumed he does not intent to offer any exhibits.

VI. *DEFENSES*

Defendant Charles Koss was unresponsive so I assumed he does not plan to rely on any defenses.

VII. *POSSIBLE DISPOSITION*

Based on Defendant's behavior, I believe this case is definitely for trial.

VIII. STIPULATIONS

Stipulations are not likely.

IX. TRIAL TIME

Counsel for the Government believes that this case will take 3 days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

Each party file and serve a list of exhibits he intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by January 30, 2013.

Each party file and serve requested jury voir dire examination questions by or before noon, Wednesday, February 6, 2013.

Each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions¹ by or before noon, Wednesday, February 6, 2013. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and by e-mail to the trial judge's courtroom deputy.

XI. UNUSUAL QUESTIONS OF LAW

The Government will file a motion in limine regarding sovereign citizen claims. There are no unusual questions of law.

XII. TRIAL SETTING

Counsel and Defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on February 11, 2013. The Government requests the

¹Counsel in all cases assigned to be tried before Chief Judge Fernando Gaitan, Jr., as reflected in the trial letter, shall meet and prepare a packet of agreed proposed jury instructions to be submitted to Judge Gaitan and e-mailed to marylynn_shawver@mow.uscourts.gov and rhonda_enss@mow.uscourts.gov by February 8, 2013. To the extent there are disagreements to certain instructions, each attorney shall tab and submit his or her preference on those instructions. The instructions shall be listed in the order they are to be given.

second week of the docket due to witness conflicts.

A hearing device is needed for Defendant.

/s/ Robert E. Larsen
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
January 30, 2013

cc: Mr. Kevin Lyon